IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.4276 OF 1994

Balasaheb Desai Sahakari Sakhar
Karkhana Ltd. ...Petitioner.
Vs.
State of Maharashtra & Ors. ...Respondents.

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Mr. Nitin Muley i/b. Mr. G.S. Godbole for the Petitioner.
Mr. Vijay Patil for Respondent No.148 and 126.
Mr. C.R. Sonawane, AGP for Respondent Nos.1 to 4.

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CORAM : A. P. SHAH AND
DR.D.Y.CHANDRACHUD, JJ.

June 24, 2005.

P.C.:

The Petitioner is a Specified Society under Section 73G of the the Maharashtra Co-operative Societies' Act, 1960 ("the Act"). The Petitioner is a processing society as defined under sub-section (22) of Section 2. The Petitioner has set up a sugar factory in the District of Satara for the crushing of sugarcane and for the production of sugar therefrom. By virtue of the provisions of Section 23(4), the Petitioner as an agro-processing society is obliged to admit, on an application made to it, every eligible

member from its zone or area of operation, as the case may be, as a member of the Society unless such a person is already registered as a member of any other such Society in the same zone or area of operation. The Petitioner was registered in or about 1969.

The dispute in the present case arises out of a refusal of membership by the Petitioner to Respondent Nos.5 to 164. These Respondents who, for the convenience of reference may be referred to as the 'private Respondents' to this proceeding, are stated to have approached the Petitioner for obtaining application forms for membership on or about 15th April 1988. There was no reply by the Petitioner and thereupon, the private Respondents approached the Regional Deputy Director of Sugar, Pune Region, Pune, with the complaint that the Petitioner was avoiding its obligation to enroll those Respondents as members. The Regional Deputy Director of Sugar forwarded the applications for membership together with necessary documents in accordance with the provisions of Bye-law 18A of the Petitioner in exercise of

powers under Section 23(1)(A) of the the Maharashtra Co-operative Societies' Act, 1960. On 30th June 1988, a resolution was passed by the Board of Directors of the Petitioner rejecting the applications for membership on the ground that the applications were not in the prescribed form, and the applicants had not paid their entrance fee or the share application money to the Petitioner. Aggrieved by the refusal of membership, the private Respondents moved the Regional Deputy Director of Sugar in appeal. By an order dated 17th December 1990, the Regional Deputy Director allowed the appeal and directed that membership should be granted to the private Respondents who were the appellants before him. The order of the Regional Deputy Director, was confirmed by the Joint Director of Sugar by an order dated 28th November 1991 and by the State Government by the impugned order dated 14th October 1993.

Both the Authorities below have come to the conclusion that the private Respondents had duly complied with all the requirements under the law including the requirements spelt out in

Bye-law 18A of the Bye-laws governing the Petitioner. The requirements for membership under Bye-law 18A are that (i) The applicant have attained 18 years of age, and be eligible to enter into a contract; (ii) The applicant must either be an owner or tenant cultivator of land; and (iii) The applicant should pay the entrance fee and share application money as determined by the Petitioner together with the membership application. The Appellate Authority noted that the private Respondents had approached the Petitioner demanding application forms for membership and when these were refused, they approached the Regional Deputy Director of Sugar by filing a complaint. The Regional Deputy Director of Sugar, it appears from the facts, noted that the private Respondents were refused application forms. Each of the private Respondents were stated to have complied with the requirements of the Bye-laws and thereupon the Regional Deputy Director of Sugar issued directions under Section 23(1)(A) of the Act by forwarding the applications to the Petitioner. The Regional Deputy Director of sugar confirmed that the applications were in the prescribed form, that the applicants had paid the requisite amounts towards entrance fee

and share application money by depositing the aforesaid amounts in the District Central Co-operative Bank, receipts of which were produced together with the application. The revisional authority has confirmed these findings of the Appellate Authority. The revisional authority has noted that all the private Respondents had submitted their applications for membership in the prescribed form together with requisite documents including 7x12 extracts, receipts evidencing deposit of the entrance and share application money before the District Central Co-operative Bank and all other requirements were duly complied with. In our view, having regard to the provisions of Section 23(4) of the Act, the revisional authority was justified in holding that the Petitioner was under a statutory obligation to admit the private Respondents to membership once it was found that they had complied with all the requirements under the law for the grant of membership.

We have perused the orders passed by the authorities below. In our view, no case for interference under Article 226 of the Constitution has been made out. When this petition came to

be admitted on 30th March 1995, interim relief was refused. In the affidavit in reply which has been filed in these proceedings, the attention of the Court has been drawn to the position that all throughout in the proceedings before the authorities below, there was no stay to the initial order of the Regional Deputy Director of Sugar dated 17th December 1990 granting membership to the private Respondents. The private Respondents have, therefore, continued as members of the Petitioner for over a decade. The authorities below have come to the conclusion and in our view, correctly, that the private Respondents satisfied all the conditions for the grant of membership and the Petitioner was not justified in law in declining to grant their applications. These findings do not suffer from any perversity or an error apparent as to warrant the invocation of the jurisdiction under Article 226 of the Constitution. In any event, at this point of time after the private Respondents have continued as members of the Society for over a decade, the Court would not be justified in reopening the issue. For all these reasons, we are of the view that there is no merit in the petition and that the petition should accordingly be dismissed.

The petition is accordingly rejected. In the facts of the case, there shall be no order as to costs.

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